

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Hearing Date: December 8, 2009
Hearing Time: 10:00 a.m.

In re

X : Case No. 09-22261 (RDD)
: Chapter 13

OLGA D. PAREDES,

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Debtor.

X

**RESPONSE OF THE UNITED STATES TRUSTEE IN CONNECTION TO
MOTION OF PHH MORTGAGE CORPORATION FOR RECONSIDERATION
OF THIS COURT'S ORDER**

**TO THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:**

Diana G. Adams, the United States Trustee for the Southern District of New York (the “United States Trustee”), respectfully submits this response to the motion (the “Reargument Motion”) (Doc. No. 41) of PHH Mortgage Corporation (“PHH”) for reconsideration of this Court’s order expunging PHH’s proof of claim (the “POC”). In support of her response, the United States Trustee alleges as follows:

To the extent that the Court grants the Rargument Motion, the Court should not “reinstate the Proof of Claim” as requested by PHH, see Memorandum of Law in Support of the Rargument Motion at 12, but rather permit the parties an opportunity to conduct discovery in order to establish the *bona fides* of the POC.¹ As stated orally at the hearing on September 29, 2009, the United States Trustee has serious concerns about the POC. Among other things, the parties should be entitled to take the deposition of James D. Scott, who filed an affidavit (Doc. No. 45) in support of the Rargument Motion, and Tracy Johnson, who filed an affidavit (Doc. No. 24) on behalf of PHH in opposition to the Debtor’s Objection to the POC. The United States Trustee fully reserves all her rights, including her right to seek or support sanctions, if this Court denies the Rargument Motion or expunges the POC after further hearings.

¹The Court may consider the Rargument Motion notwithstanding the prior filed Notice of Appeal. See Fed. R. Bankr. P. 8002(b).

WHEREFORE, the United States Trustee respectfully requests that the Court enter an order denying the Reargument Motion and granting such other and further relief as may be deemed just and proper.

Dated: New York, New York
December 4, 2009

Respectfully submitted,

DIANA G. ADAMS
UNITED STATES TRUSTEE

By:

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